

CV 14

2306

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

ELMIRA BROWN,

Plaintiff,

v.

EBAY and USPS,

Defendants.

-----X

Civil Action
No.: _____

NOTICE OF REMOVAL

VITALIANO, J.

SCANLON, M.J.

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK:

PLEASE TAKE NOTICE that the above-captioned action, previously pending in the Civil Court of the City of New York, County of Richmond, has been removed to the United States District Court for the Eastern District of New York.

Defendant, the United States Postal Service ("USPS" or "Postal Service"), by and through its attorney, LORETTA E. LYNCH, United States Attorney for the Eastern District of New York, James R. Cho, Assistant United States Attorney, of counsel, respectfully states the following facts upon information and belief:

1. On or about December 19, 2013, the above-captioned action was commenced in the Civil Court of the City of New York, County of Richmond, under Index No. CV-005627-13/RI, naming as defendants EBAY and the Postal Service.

2. Plaintiff Elmira Brown alleges that defendants "[failed] to provide proper services for \$5,000.00." In accordance with 28 U.S.C. § 1446(a), a copy of the Amended Summons with Endorsed Complaint is annexed hereto as Exhibit A.

3. Although Plaintiff's claim against the Postal Service is unspecified, the complaint appears to allege a wrongful act or omission by the Postal Service, and thus would arise under the Federal Tort Claims Act, 28 U.S.C. §§ 2671 *et seq.*

4. Pursuant to 28 U.S.C. §§ 2679 and 1442(a)(1), this action may be removed to this Court because the complaint asserts claims against the United States of America ("United States"), by way of the Postal Service, a federal agency.

5. Pursuant to 28 U.S.C. § 2408, the United States may remove this action without a bond.

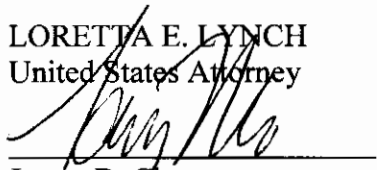
WHEREFORE, the Court is respectfully advised that the above-captioned action previously pending in the Civil Court of the City of New York, County of Richmond, has been removed to this Court; and in accordance with 28 U.S.C. § 1446(d), the filing of a copy of this notice with the Clerk of the Civil Court of the City of New York, County of Richmond, shall give that court notice of the removal, and the Civil Court of the City of New York shall proceed no further with respect to the action unless and until the case is remanded.

Dated: Brooklyn, New York
May 5, 2014

Very truly yours,

LORETTA E. LYNCH
United States Attorney

By:


James R. Cho
Assistant U.S. Attorney
(718) 254-6519
james.cho@usdoj.gov

TO: **Via Overnight Courier**

Clerk of Court
Civil Court of the City of New York, County of Richmond
927 Castleton Avenue
Staten Island, NY 10310

Hon. Philip S. Straniere, Supervising Judge
Civil Court of the City of New York, County of Richmond
927 Castleton Avenue
Staten Island, NY 10310

Elmira Brown
196 Clawson Street
Staten Island, NY 10306

EBAY
c/o National Registered Agents, Inc.
111 Eighth Avenue
New York, NY 10011

Exhibit A

Civil Court of the City of New York
County of Richmond

Index Number: **CV-005627-13/RI**

ELMIRA BROWN

Plaintiff(s)

-against-
EBAY; USPS

Defendant(s)

U.S. POSTAL SERVICE

DEC 31

RECEIVED BY
OFFICE OF THE GENERAL COUNSEL

AMENDED SUMMONS WITH ENDORSED COMPLAINT

BASIS OF VENUE: Plaintiff's residence

Plaintiff's Address (s):
ELMIRA BROWN
196 CLAWSON STREET
Staten Island, New York 10306

To the named defendant (s)

EBAY (Deft), at c/o NATIONAL REGISTERED AGENT, 2778 W. SHADY BEND LANE, Lehi, Utah 84043
USPS (Deft), at 475 L'ENFANT PLAZA, 6TH FLOOR, Washington, District of Columbia 20260

YOU ARE HEREBY SUMMONED to appear in the Civil Court of the City of New York, County of Richmond at the office of the Clerk of the said Court at **927 Castleton Ave, Staten Island, New York 10310** in the County of Richmond, City and State of New York, within the time provided by law as noted below and to file your answer to the (endorsed summons) (annexed complaint) * with the Clerk; upon your failure to answer, judgment will be taken against you for the total sum of \$5,000.00 and interest as detailed below. Plaintiff's work sheet may be attached for additional information if deemed necessary by the clerk.

Date: December 19, 2013

Carol Alt
Chief Clerk

Carol Alt
CHIEF CLERK

ENDORSED COMPLAINT

The nature and the substance of the plaintiff's cause of action is as follows: **Failure to provide proper services for \$5,000.00**

***NOTE TO THE DEFENDANT**

A) If the summons is served by its delivery to you personally within the City of New York, you must appear and answer within TWENTY days after such service; or

B) If the summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed THIRTY days after the proof of service thereof is filed with the Clerk of this Court within which to appear and answer.

C) Following CPLR 321(a) corporations must be represented by an attorney.

*** NOTE TO THE SERVER OF THE SUMMONS**

The person who serves the summons should complete the Affidavit of Service and shall file it in the Clerk's Office in the county where the action is brought.

PLAINTIFF'S CERTIFICATION
(See 22NYCRR, Section 130-1.1a)

SIGN NAME: *Elmira Brown*
PRINT NAME: **ELMIRA BROWN**

RECEIVED

DEC 31 2013

DEPARTMENT

U.S. POSTAL SERVICE

DEC 31 2013

RECEIVED BY
OFFICE OF THE GENERAL COUNSEL

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12/10/13

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ELECTRONICALLY SIGNED AND
CERTIFIED MAIL
CERTIFIED MAIL
CERTIFIED MAIL



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USPS

475 KENNETH PLAZA

646 FROOK,

WASHINGTON, DC 20260



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U.S. POSTAGE

PAID
STRIKEN, IND., IN

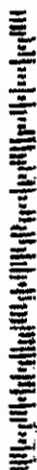
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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF RICHMOND

-----X

ELMIRA BROWN,

Plaintiff,

v.

EBAY and USPS,

Defendants.

-----X

**NOTICE OF FILING OF
NOTICE OF REMOVAL**

Index No. CV-005627-13/RI.

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
MAY -5 AM 10:40
FILED

TO: THE CLERK OF THE CIVIL COURT OF THE
CITY OF NEW YORK, COUNTY OF RICHMOND:

NOTICE IS HEREBY GIVEN that the Defendant United States Postal Service ("USPS"), by and through its attorney, LORETTA E. LYNCH, United States Attorney for the Eastern District of New York, James R. Cho, Assistant United States Attorney, of counsel, has filed a Notice of Removal, pursuant to 28 U.S.C. §§ 2679 and 1442(a)(1), removing the above-captioned action, pending on the docket of the Civil Court of the City of New York, County of Richmond, to the United States District Court for the Eastern District of New York. A true and correct copy of the Notice of Removal is attached.

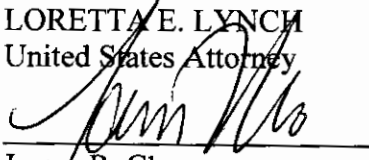
Pursuant to 28 U.S.C. § 1446(d), the Civil Court of the City of New York, County of Richmond, should proceed no further unless and until the case is remanded, and should transmit all the papers filed in the above action to the Clerk of the Court, United States District Court, Eastern District of New York.

Dated: Brooklyn, New York
May 5, 2014

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By:


James R. Cho
Assistant U.S. Attorney
(718) 254-6519
james.cho@usdoj.gov

TO: **Via Overnight Courier**

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